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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,026	04/10/2001	Gary Helms	108298613US	8349

25096 7590 05/12/2005

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EXAMINER
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WEBB, JAMISUE A

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 05/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/833,026

Applicant(s)

HELMS ET AL.

Examiner

Jamisque A. Webb

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### *Response to Amendment*

1. This office action is in response to amendment filed 2/28/05.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-3, 9, 12, 17-19, 22-24, 28-30, and 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kipp (5,890,136) in view of Horwitz et al. (6,496,806).

5. With respect to Claims 1, 11, 22 and 32: Kipp discloses the use of an order database (26) that is used to pull inventory and for shipping (See abstract), where the orders are tracked (Column 2, lines 34-37) through an order database (Column 7, lines 16-18) and tracks the articles (Column 5, lines 47-64). However, Kipp fails to disclose

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the use of a unit order database that includes a record for each unit of each item of the order. Horwitz discloses the use of a method and system for tracking each individual item of a cluster of items (See abstract) that can be used for purchase order systems (Column 1, lines 17-63), where a record of each item is stored in a database, and each record is linked through a cluster, so that when the status of one item changes, the cluster changes (see Column 4, lines 40-57, Column 1, lines 1-20, and Column 8, lines 17-24). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Kipp, to include the method and system of tracking each individual item of a cluster, as disclosed by Horwitz, in order to more accurately track items that are moved, handled or processed in clusters. (See Horwitz, Column 1)

6. With respect to Claims 2, 12, 23 and 33: See Horwitz, Column 6, lines 9-19.

7. With respect to Claims 3, 13, 24 and 34: See Horwitz, Column 6, lines 28-50.

8. With respect to Claims 7, 17 and 28: Horwitz discloses the updating of the database that contains the items happens when the items are moved from one storage location to another storage location (See Column 11, line 41 to Column 12, line 64). The examiner considers this to be a periodic basis, since the pallets are not moved on a continuous basis, but sit in storage and inventory.

9. With respect to Claims 8, 18 and 29: The items in Horwitz are tracked on a real time basis (column 12, lines 65), therefore multiple times a day, which the examiner considers to be done on a daily basis.

10. With respect to Claims 9, 19 and 30: See Column 12, lines 1-67.

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11. Claims 4-6, 10, 13-16, 21, 25-27, 31 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kipp and Horwitz et al. as applied to claims 1, 11, 22 and 32 above, and further in view of Peachey-Kountz et al. (6,463,345).

12. With respect to Claims 4-6, 10, 13-16, 21, 25-27, 31 and 35: Kipp and Horwitz discloses the use of a purchase order and having a record for each item in an order that is shipped, but fail to disclose the order can be modified to increase or decrease the quantity of the order, and either adding a unit record or setting a record to cancelled. Peachey-Kountz discloses the use of orders where the quantity of items are changed and modified due to backorders or cancellation of orders (see Figures 5-7, Column 11, lines 53-67), and the record status is updated to reflect the change, (see Figures 5 and 6 with corresponding detailed description). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Kipp and Horwitz, to include the capability of changing the order, and the records reflecting the change, in order to provide an improved reporting system. (See Peachey-Kountz, Column 9)

#### ***Response to Arguments***

13. Applicant's arguments filed 2/28/05 have been fully considered but they are not persuasive.

14. With respect to Applicant's argument that Kipp and the other references do not disclose or suggest or teach tracking the status of each unit of each item of an order: The applicant has stated that Kipp merely describes tracking the removal of articles from their respective storage locations. While this may be true. It should be noted that Kipp was

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not used in the rejection to teach the use of tracking individual items of an order,

Horiwitz was used to disclose this aspect of the claim.

15. With respect to Applicant's argument that Horwitz does not disclose suggest or teach updating a unit order database to include a record for each unit of each item of each order of the order database: The applicant has stated Horwitz merely describes using linked Tag IDs and cluster IDs in a centralized database to enable the cluster ID to be determined from the tag ID. As stated in Horwitz and as stated by the applicant. Horwitz discloses a tag ID that is given to every item in a cluster. Due to the fact that each item has an ID, then the examiner considers this to be a form of a record, due to the fact that the information is recorded, and every item has its own information. The applicant has argued that a record for each item exists in the central database irregardless of whether the item is grouped into a cluster. The claims state updating a database to include a record for each unit of each item, however, the claims do not exclude records for items which are not on an order. Horwitz discloses that when several of the items are grouped together, however even when they are grouped, they still have separate IDs and therefore separate records.

16. With respect to Applicant's argument that Horwitz does not disclose, suggest or teach setting a status in the record of the unit order database for the unit of the item of the order to reflect the hanged status when the status of an item of an order changes: The applicant has argued that the status is not changed in the record. However, Horwitz discloses that each item can be tracked, and that the tracking is recorded. Therefore the examiner considers a change in tracking to correlate with a change in the status of the item in the record.

***Conclusion***

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

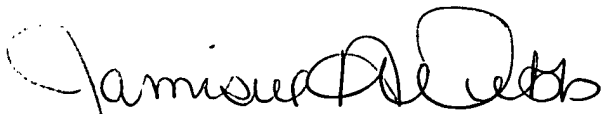
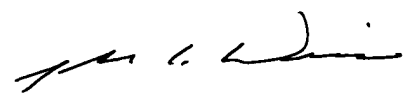
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (571) 272-6811. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jamisue Webb  
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